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cc: order, docket, remand letter
to Los Angeles Superior Court
Inglewood, No. 11 L00191

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BANK OF AMERICA, National Association as Successor By Merger To Lasalle Bank National Association, As Trustee For Certificateholders of Bear Sterns Asset Backed Securities I, LLC, Asset-backed Certificates, Series 2006)	Case No. CV 11-03726 DDP (Ex)
)	
)	ORDER GRANTING PLAINTIFF'S MOTION TO REMAND
)	
)	[Motion filed on 5/11/2011]
)	
)	
Plaintiff,)	
)	
v.)	
)	
RAQUEL SIMS; Does 1 To 20, Inclusive,)	
)	
Defendant.)	
_____)	

Presently before the court is Plaintiff's Motion to Remand Case to the Superior Court of California, County of Los Angeles. Defendant, Raquel Sims, has not opposed this motion. Having read the parties' pleadings and considered the arguments therein, the court GRANTS Plaintiff's Motion to Remand and REMANDS Plaintiff's Complaint.

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1 **I. Background**

2 Plaintiff is the owner of the real property located at 916 East
3 65th Street, Unit #2, Inglewood, CA 90302. (Compl. ¶1.) Defendant,
4 Raquel Sims, is currently in possession of this property without
5 the permission or consent of Plaintiff. Plaintiff purchased the
6 property at issue on October 1, 2010, at a non-judicial
7 foreclosure sale. Defendant was served with a 3/90 Notice to Quit
8 on October 16, 2010. As Defendant remained in possession of the
9 property, Plaintiff filed a Complaint for Unlawful Detainer in the
10 Superior Court of California, County of Los Angeles on January 24,
11 2011. Defendant was served with the Complaint for Unlawful
12 Detainer on February 10, 2011. Defendant filed a Notice of
13 Removal on April 29, 2011.

14 Plaintiff filed this Motion to Remand on May 11, 2011.
15 Plaintiff argues that Removal was improper because the Court lacks
16 subject matter jurisdiction and Defendant's Notice of Removal of
17 Action was untimely.

18 **II. Legal Standard**

19 A defendant may remove a case from state court to federal
20 court if the case could have originally been filed in federal
21 court. 28 U.S.C. § 1441(a); see also Snow v. Ford Motor Co., 561
22 F.2d 787, 789 (9th Cir. 1977). As the removing party, Defendant
23 bears the burden of proving federal jurisdiction. Duncan v.
24 Stuetzle, 76 F.3d 1480, 1485 (9th Cir. 1996); see also Matheson v.
25 Progressive Specialty Ins. Co., 319 F.3d 1089, 1090 (9th Cir.
26 2003). The removal statute is strictly construed against removal
27 jurisdiction. Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir.
28 1992) (explaining that courts resolve doubts as to removability in

1 favor of remand). Only actions that could have originally been
2 filed in federal court may be removed by a defendant. 28 U.S.C.
3 § 1441. Federal question jurisdiction exists over claims "arising
4 under the Constitution, laws, or treaties of the United States."
5 28 U.S.C. § 1331. To determine whether there is federal question
6 jurisdiction, a court applies "the well-pleaded complaint rule."
7 Caterpillar, Inc. v. Williams, 482 U.S. 386, 392, 96 L. Ed. 2d
8 318, 107 S. Ct. 2425 (1987). Under the well-pleaded complaint
9 rule, "a federal question must appear on the face of a properly
10 pleaded complaint." Ansley v. Ameriquest Mortgage, Co., 340 F.3d
11 858, 861 (9th Cir. Cal. 2003) (citing Rivet v. Regions Bank of
12 La., 522 U.S. 470 (1998)). Absent federal question jurisdiction,
13 diversity of citizenship is required.

14 For diversity of citizenship, section 1332 provides that
15 district courts have original jurisdiction "of all civil actions
16 where the matter in controversy exceeds the sum of value of
17 \$75,000, exclusive of interest and costs and is between citizens
18 of different States." 28 U.S.C. § 1332(a)(1).

19 **III. Discussion**

20 In the Complaint for Unlawful Detainer, Plaintiff raises a
21 claim under California state law (Cal. Civ. Code §1161a), not the
22 "Constitution, laws, or treaties of the United States." 28 U.S.C.
23 § 1331. Accordingly, subject matter jurisdiction is not
24 established on the basis of federal question jurisdiction. As the
25 Complaint for Unlawful Detainer explicitly states that the amount
26 of damages sought "does not exceed \$10,000," (Compl. ¶1c) federal
27 subject matter jurisdiction also does not exist on the basis of
28 diversity jurisdiction because the minimum amount in controversy,

1 \$75,000, has not been met. Accordingly, Defendant has failed to
2 establish that this court has original jurisdiction over
3 Plaintiff's Complaint. Defendant has not overcome the presumption
4 against removal. Grable, 545 U.S. at 314. The court is obligated
5 to resolve all ambiguity in favor of remand.

6 **IV. Conclusion**

7 For the foregoing reasons, the court GRANTS Plaintiff's
8 Motion to Remand and REMANDS Plaintiff's Complaint.

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11 IT IS SO ORDERED.

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14 Dated: June 17, 2011


DEAN D. PREGERSON

United States District Judge